

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES:::ASSAM:::GUWAHATI.

ORDER

Dated Dispur, the 11th June, 2010.

No. CTS-71/2007/125: M/s. Greaves Cotton Ltd., House No. 48, 1st Floor, Kachari Basti, Christianbasti, Guwahati-781005 has filed an application under section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on the rate of tax of following machineries.

- (1) Batching plant with spares and accessories.
- (2) Transit Mixtures with spares and accessories.
- (3) Boom Pump with spares and accessories.
- (4) Metro Pump with spares and accessories.
- (5) Vibratory Rollers with spares and accessories.
- (6) Pneumatic tyres rollers with spares and accessories.

Shri Mukesh Kr. Dewan, Tax Consultant and Advocate appeared on behalf of the petitioner. He placed his submission and also brochure of the products. He submitted that the machineries, equipments, attachments and accessories are used for the purpose of construction of roads, buildings and bridges etc. Batching plant and transit mixtures are used for mixing semi solid concrete comprising of cement, stone, chips, sand etc. He also submitted that “crane, bulldozers, dumper, road rollers, tipper, excavators, earthmovers and attachment and parts thereof” are taxable at the rate of 5% under the Assam Value Added Tax Act, 2003. He submitted that boom pump and metro pump are earthmovers and vibratory rollers and pneumatic tyres roller are same as road rollers and bulldozers.

Perused the submission and model of the items are consulted with the brochure submitted by the petitioner.

It appears that the machineries are used for construction works. The entry at serial number 15 of Part-A of Second Schedule read as “Machineries used in manufacture of goods and parts thereof including moulds”. The item in (1) and (2) above are machineries used for construction works and they mix only semi solid concrete mixtures. As such, those two items are neither covered under entry at serial number 15 of Part-A of Second Schedule nor covered under any entries in First, Second, Third and Fourth Schedule. Therefore, the same are unspecified items and shall be covered under entry at serial number 1 of the Fifth Schedule of the Assam Value Added Tax Act, 2003 and shall be taxable @13.5%.

The petitioner claims that (3) and (4) are earthmover. However, on perusal of the brochure, it appears that both machineries help to send concrete mixture from one place to another through its pipeline and therefore, cannot be regarded as earthmover. Therefore, these are unspecified items and they are covered under entry at serial 1 of the Fifth Schedule of the Assam Value Added Tax Act, 2003 and shall be taxable @13.5%.

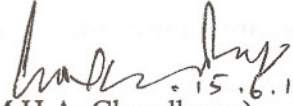
From the specification, it appears that items at serial (5) and (6) above are used for soil compaction and can be regarded as road roller. Hence, these items shall be covered by entry at serial number 95 of the Part-A of the Second Schedule and taxable @5%.

Sd/-Sanjay Lohiya,
Commissioner of Taxes, Assam,
Guwahati.

Memo No. CTS-71/2007/125-A
Copy to:-

Dated Dispur, the 16th June, 2010

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information of the Government.
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes (All) for information.
3. The Deputy Commissioners of Taxes (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
5. M/s. Greaves Cotton Ltd., House No. 48, 1st Floor, Kachari Basti, Christianbasti, Guwahati-781005 for information.


(M.H.A. Choudhury),
Addl. Commissioner of Taxes, Assam,
Dispur, Guwahati-6.
